

**State of Alabama  
Primary Review  
Title IV-E Foster Care Eligibility  
Report of Findings for  
October 1, 2008 – March 31, 2009**

**Introduction**

During the week of August 24, 2009, the Children’s Bureau (CB) of the Administration for Children and Families (ACF) conducted a primary review of the State’s title IV-E foster care program. The review was conducted in collaboration with the State of Alabama’s Department of Human Resources and was completed by a review team comprised of representatives from the State agency, CB Central and Regional Offices, ACF Regional Grants Management, the Family Services Executive Director of the Poarch Band of Creek Indians, and peer reviewers.

The purposes of the title IV-E foster care eligibility review were (1) to determine whether Alabama’s Department of Human Resources title IV-E foster care program was in compliance with the eligibility requirements as outlined in 45 CFR §1356.71 and §472 of the Social Security Act (the Act); and (2) to validate the basis of the State’s financial claims to ensure that appropriate payments were made on behalf of eligible children.

**Scope of the Review**

The primary review encompassed a sample of the State’s foster care cases that received a title IV-E maintenance payment during the 6-month period under review (PUR) of October 1, 2008 through March 31, 2009. A computerized statistical sample of 100 cases (80 cases plus 20 oversample cases) was drawn from State data submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the above period. Eighty (80) cases were reviewed, which consisted of 80 cases from the original sample. There were no cases excluded from the original sample.

In accordance with Federal provisions at 45 CFR 1356.71, the State was reviewed against the requirements of title IV-E of the Act and Federal regulations regarding:

- Judicial determinations regarding reasonable efforts and contrary to the welfare as set forth in §472(a)(2)(A) of the Act and 45 CFR §§1356.21(b)(1) and (2), and (c), respectively;
- Voluntary placement agreements as set forth in §472(a)(2)(A) and (d)-(g) of the Act and 45 CFR §1356.22;

- Responsibility for placement and care vested with State agency as stipulated in §472(a)(2)(B) of the Act and 45 CFR §1356.71(d)(1)(iii);
- Eligibility for Aid to Families with Dependent Children (AFDC) under the State plan in effect July 16, 1996 as required by §472(a)(3) of the Act and 45 CFR §1356.71(d)(1)(v).
- Placement in a licensed foster family home or childcare institution as defined in §472 (b) and (c) of the Act and 45 CFR §1355.20(a); and
- Safety requirements for the child’s foster care placement as required at 45 CFR §1356.30

The case file of each child in the selected sample was reviewed to verify title IV-E eligibility. The foster care provider’s file also was examined to ensure the foster family home or child care institution where the child was placed during the PUR was licensed or approved and that safety requirements were appropriately documented. Payments made on behalf of each child also were reviewed to verify the expenditures were allowable under title IV-E and to identify underpayments that were eligible for claiming. A sample case was assigned an error rating when the child was not eligible on the date of activity in the PUR for which title IV-E maintenance was paid. A sample case was cited as non-error with ineligible payment when the child was not eligible on the activity date outside the PUR, or the child was eligible in the PUR on the service date of an unallowable activity and title IV-E maintenance was paid for the unallowable activity. In addition, underpayments were identified for a sample case when an allowable title IV-E maintenance payment was not claimed by the State for an eligible child during the 2-year filing period specified in 45 CFR §95.7, unless the title IV-E agency elected not to claim the payment or the filing period had expired. CB and the State agreed that the State would have two weeks following the onsite review to submit additional documentation for a case that during the onsite review was identified as in error, in “undetermined” status, or not in error, but with ineligible payments. Based on the supplemental documentation, the improper payment findings for sample case numbers 17, 20, and 71 were changed to non-error cases.

### **Compliance Finding**

The review team determined that 77 of the 80 cases met eligibility requirements (i.e., were deemed non-error cases) for the PUR. Three (3) cases were determined as in error for either part or all of the PUR and six (6) non-error cases were ineligible for Federal funding for a period of claiming. Accordingly, Federal funds claimed for title IV-E foster care maintenance payments, including related administrative costs associated with the error cases and non-error cases with ineligible payments, are being disallowed. Because the number of cases in error is fewer than four (4), Alabama’s Department of Human Resources is in substantial compliance for the PUR.

**Case Summary**

The following charts record the error cases, non-error cases with ineligible payments, underpayments, reasons for the improper payments, improper payment amounts, and Federal provisions for which the State did not meet the compliance mandates.

**Error Cases**

<b>Sample Number</b>	<b>Improper Payment Reason &amp; Ineligibility Period</b>	<b>Improper Payments (FFP)</b>
AL #47	Placement in an unlicensed foster care facility [§472(b) and (c) of the Act; 45 CFR §1356.71(d)(1)(iv)]; §1355.20.] Ineligible: 06/01/2008 – 11/30/2008	\$1,838 Maint. \$3,234 Admin.
AL #56	Placement in an unlicensed foster care facility [§472(b) and (c) of the Act; 45 CFR §1356.71(d)(1)(iv); §1355.20.] Ineligible: 03/23/2009 – 07/05/2009	\$1,193 Maint. \$1,889 Admin.
AL #43	Child turned 18 during the PUR and State agency does not exercise the school attendance option [§472(a)(1) of the Act; 45 CFR §§1356.71(d)(1)(v)] Ineligible: 03/01/2009 – 07/31/2009	\$1,761 Maint. \$2,761 Admin.

Total: \$12,676

**Non-error Cases with Ineligible Payments**

<b>Sample Number</b>	<b>Improper Payment Reason &amp; Ineligibility Period</b>	<b>Improper Payments (FFP)</b>
AL #5	Foster care maintenance payments made for two foster care placements for the same period. [§475(4) of the Act; 45 CFR §1356.60(a)(1)(i); CB Child Welfare Policy Manual (CWPM), Section 8.3B.1, Q/A #10] Ineligible: 04/17/2009 – 04/20/2009	\$45 Maint. \$54 Admin.
AL #31	Foster care maintenance payments made for two foster care placements for the same period. [§475(4) of the Act; 45 CFR §1356.60(a)(1)(i), CWPM, Section 8.3B.1, Q/A #10] Ineligible: 02/13/2009 – 02/16/2009	\$45 Maint. \$54 Admin.
AL #40	Foster care maintenance payments made for two foster care placements for the same period. [§475(4) of the Act; 45 CFR §1356.60(a)(1)(i), CWPM, Section 8.3B.1, Q/A #10] Ineligible: 02/26/2009 – 02/28/2009 and 03/01/2009 – 03/04/2009	\$ 89 Maint. \$131 Admin.

AL #53	Child turned 18 during PUR and State agency does not exercise the school attendance option. [§472(a)(1) of the Act; 45 CFR §§1356.71(d)(1)(v)] Ineligible: 04/01/2009 – 07/31/2009	\$1,464 Maint. \$2,198 Admin.
AL#79	Foster care maintenance payments made for two foster care placements for the same period. [§475(4) of the Act; 45 CFR §1356.60(a)(1)(i), CWPM, Section 8.3B.1, Q/A #10] Ineligible: 04/17/2000 – 04/20/2009	\$34 Maint. \$70 Admin.
AL#80	Foster care maintenance payments made for two foster care placements for the same period. [§475(4) of the Act; 45 CFR §1356.60(a)(1)(i), CWPM, Section 8.3B.1, Q/A #10] Ineligible: 12/31/2008 – 12/31/2008	\$59 Maint. \$18 Admin.

Total: \$4,261

### **Areas in Need of Improvement**

The findings of this review indicate that the State needs to further develop and implement procedures to improve program performance in the following areas. For each issue, there is a discussion of the nature of the area needing improvement, the specific title IV-E requirement to which it relates, and the corrective action the State should undertake.

Issue #1: *Placement in unlicensed foster care facilities.* There were two (2) error cases in which children were placed in homes that were not fully licensed. In one case, the child was placed in a provisionally licensed foster home and the other case involved a foster home being placed on probationary status due to the foster parents' failure to fully satisfy all of the State's licensing requirements. These foster family homes were not considered fully licensed under State licensure standards.

Title IV-E Requirements: Federal provisions at 472(c) and 45 CFR 1356.71(g) and 1355.20 require that the child's foster care setting be fully licensed or approved in accordance with the State's licensing standards. The State agency must document that the child's foster care placement is fully licensed or approved in order for the child's placement to be eligible for title IV-E payments. Federal financial participation (FFP) may not begin until the first day of the month in which full compliance with the State's licensing standard is met.

Recommended Corrective Actions: The State should continue to develop and implement procedures to ensure that each foster care provider is fully licensed prior to claiming title IV-E foster care maintenance payments for a child's placement. The title IV-E Eligibility Unit should ensure that foster parents meet the licensing requirements before a title IV-E foster care maintenance payment is made.

Issue #2: *Respite care and foster care maintenance payments made for the same period:* There were five (5) non-error cases with ineligible payments related to maintenance assistance for a licensed foster parent who provided "respite" for a short period of time

for a child who was placed with another licensed foster parent. Foster care maintenance payments were made to the two foster care providers for the same time period.

Title IV-E Requirements: Respite care, per se, is defined in Federal regulation as an allowable title IV-B child welfare service and is not an allowable expenditure under title IV-E foster care maintenance. In accordance with section 475(4) of the Act, 45 CFR 1356.60(a)(1)(i), and CWPM, section 8.3B.1, Q/A #10, a State may claim allowable title IV-E foster care maintenance payments on behalf of a child who is title IV-E eligible and is placed with another licensed foster care provider temporarily as a respite placement. The substitute foster parent in this instance is not being paid to provide respite care; rather, the allowable costs of an eligible child are continuing to be paid. Title IV-E foster care maintenance payments may be claimed because the child is eligible and with a licensed foster care provider. However, the foster care maintenance payments may not be made to both providers for the same time period in this situation.

Recommended Corrective Action: The title IV-E Eligibility Unit should develop and implement procedures to ensure that duplicate payments are not being paid on behalf of children to separate foster care providers for the same time period. Staff training will help to ensure workers make accurate payment determinations.

Issue #3: *Children 18 received title IV-E foster care maintenance payments and State agency does not exercise the school attendance option:* There was one error case and one non-error case with ineligible payments related to continued title IV-E payments after a youth turned 18. Alabama did not exercise the “age and school attendance” option in its approved AFDC State plan to allow AFDC eligibility to continue after age 18 for a full-time student.

Title IV-E Requirement: Under section 406(a) of the act, AFDC, and thus title IV-E, ceases beginning on the first day of the month following the child’s attainment of age 18. The only exception to this provision is when a State elected to include in its approved AFDC State plan (in effect on 07/16/1996) eligibility coverage for youth age 18 who are full-time students in a secondary school, or in the equivalent level of vocational training or technical training and who may reasonably be expected to complete the program before reaching age 19. If the State did not elect to include the school attendance requirement in its AFDC State plan, eligibility for title IV-E foster care ceases at the end of the month the child turns 18. If the State exercised this AFDC State plan option, eligibility for title IV-E foster care ceases at the end of the month in which the youth leaves school or when the youth turns 19, whichever occurs earlier. Since the State did not exercise this option, eligibility for AFDC ceases at the end of the month the youth turns 18.

Recommended Corrective Action: The title IV-E Eligibility Unit should develop and implement procedures to ensure that payments are not continued for youth who have turned 18. Staff training will help to ensure workers review eligibility to eliminate the authorization of payments in cases where the child is not eligible.

Item #4: Court Documentation: Reviewers found it difficult to determine the actual date of judicial findings related to the removal and other pertinent court rulings on some court orders because the dates were omitted from the written orders. These dates are critical in determining eligibility as determinations must be made within specific timeframes.

Title IV-E Requirement: As required in Section 472 of the Act and 45 CFR 1356.21(d), the judicial determinations regarding contrary to the welfare, reasonable efforts to prevent removal, and reasonable efforts to finalize the permanency plan in effect, including judicial determinations that reasonable efforts are not required, must be explicitly documented. Title IV-E maintenance assistance for foster care may not be made on behalf of a child before the child meets the eligibility criteria. The removal date also is critical to a determination of the child's initial eligibility for AFDC and the timeliness in the judicial findings of "contrary to the welfare" and "reasonable efforts to prevent removal" [45 CFR §1356.21(k)(3), 45 CFR §1356.21(c), 45 CFR §1356.21(b)(1)]. Omission or inaccurate reporting of this date may result in a determination that the child is ineligible to receive title IV-E foster care maintenance payments for an entire foster care episode.

Recommended Corrective Action: We suggest training legal and DHR staff on the importance of providing written court orders that clearly and substantively document judicial decisions pertinent to title IV-E eligibility. Data, such as the removal date, in written court orders are important in determining whether or not there has been a valid removal of the child from the home. The development of model court orders also will help improve the quality of the written court orders prepared by court officials following a judge's ruling.

### **Strengths and Promising Practices**

The following positive practices and processes of the title IV-E foster care eligibility program were observed during the review. These approaches seem to have led to improved program performance and successful program operations.

Centralized Eligibility Unit: The Alabama centralized eligibility unit was put into place to manage the eligibility determination process. The unit oversees the tracking and monitoring of title IV-E eligibility determination, documenting of compliance issues, and quality assurance activities. The centralization of the eligibility determination function has facilitated training on the title IV-E eligibility requirements and resulted in the development of a tracking system for eligibility events used by the unit. It also permits more accurate and consistent application of policy, and facilitates the timely identification of issues and emerging trends, thereby allowing for problem solving when needed. CB also understands that staff in the unit work with field offices, courts, the State licensing agency, and State agency fiscal officials to ensure that required actions and supporting paperwork are completed timely and that title IV-E claims are submitted only for those cases meeting all applicable requirements. It appears that these efforts were instrumental in reducing the number and proportion of title IV-E claims for cases not documented as meeting the eligibility criteria.

Court Orders: Written court orders generally were clear, comprehensive, and contained definitive judicial findings regarding contrary to the welfare, reasonable efforts to prevent removal, and reasonable efforts to finalize the permanency plan.

### **Disallowances**

A disallowance in the amount of \$4,792 in maintenance payments and \$7,884 in related administrative costs of FFP is assessed for title IV-E foster care payments claimed for the error cases. Additional amounts of \$1,736 in maintenance payments and \$2,525 in related administrative costs of FFP are disallowed for title IV-E foster care payments claimed improperly for the non-error cases. The total disallowance as a result of this review is \$16,937 in FFP. The State also must identify and repay any ineligible payments that occurred for the error and non-error cases subsequent to the PUR. No future claims should be submitted on these cases until it is determined that all eligibility requirements are met.

### **Next Steps**

As part of the State's ongoing efforts to improve its title IV-E foster care eligibility determination process, the CB recommends that Alabama examine identified program deficiencies and develop measurable, sustainable strategies that target the root cause of problems hindering the State from operating an accurate foster care eligibility program. Appropriate corrective action should be taken in instances of noncompliance with Federal laws and regulations.